

# Justice Department backs disability group's claim that Chicago shirks housing rules

By [Dennis Rodkin](#)

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The U.S. Department of Justice this week co-signed a disability rights group's lawsuit claiming the city of Chicago has for decades ignored its legal obligation to make affordable housing work for people with disabilities.

Thousands of city-sponsored affordable housing units were never inspected to make sure they comply with federal accessibility requirements, Access Living claims [in a lawsuit it filed in 2018](#). An architectural specialists' inspection of 178 developments found that all failed to meet federally mandated accessibility standards.

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The result is that “Chicago residents with disabilities aren’t able to get adequate housing and end up in nursing homes or homeless shelters or other places that are completely inaccessible to them,” said Daisy Feidt, executive vice president of Access Living.

Accessibility requirements include such details as stepless entry and bathrooms wide enough to be used with a wheelchair.

The city has maintained, in essence, that because the units were built by third parties, the city is not required to check their compliance with federal requirements.

The DOJ says otherwise. In its Dec. 12 [statement of interest](#), DOJ attorneys wrote “Chicago has the authority, obligation, and ability to ensure that the private developers with whom it contracts provide affordable housing that is accessible to individuals with disabilities.”

The DOJ's statement “blows to smithereens all of the city's defenses,” said Michael Allen, a partner focusing on civil rights and disability issues at the Washington law firm Relman Colfax, who is representing Access Living on the case.

“By allowing these units to be built inaccessible, (the city is) excluding people with disabilities from city-funded affordable housing,” he said. With its statement, “the Department of Justice is stating that the city's attempt to say ‘it's not our problem’ won't work.”

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Through spokesperson Kristen Cabanban, the city's Law Department emailed Crain's a statement that it "does not comment on ongoing litigation."

The housing rights of people with disabilities are protected under the Americans with Disabilities Act of 1990 and [Section 504 of the Rehabilitation Act of 1973](#).

Those laws, the DOJ statement says, cover "all the normal functions of a government entity, and includes those activities that are carried out through contractual, licensing, or other arrangements."

The statement continues, "Chicago cannot contract away its obligations."

A statement of interest does not mean the DOJ is taking up the case, only that it has spotted an issue that is of interest in its mission to protect civil rights.

Access Living's suit against the city has been playing out for the past five years in the U.S. District Court for the Northern District of Illinois, under Judge Edmond Chang. In September, the city made a motion for summary judgement, which Chang is due to rule on sometime after Dec. 15, when the city files a reply brief responding to Access Living's arguments on that question.

Since 1988, according to Access Living, the city has received more than \$2 billion in federal funds for housing and community development, all of which requires some units ensure access to people with disabilities. In the discovery phase of the current case, the city "admitted it does not inspect completed buildings before issuing occupancy permits to make sure the units comply with federal accessibility requirements," according to Access Living's press materials. The city inspects new affordable units to ensure they conform with safety, building code and other requirements, but does not do the required checks for accessibility requirements, the suit claims.

"It's incredibly frustrating that the city won't work with us" to find ways to come into compliance, Feidt said, rather than "spending millions of dollars to fight us in court."

Access Living found the city has spent almost \$4 million on private law firms defending the case since June 2018, which it says is more than twice the amount of funding than the Accessibility Compliance Unit in the Mayor's Office for People with Disabilities has received in the same period.

When Allen represented a similar case for disability groups in Los Angeles, he said, it took four years, but the city “basically realized it was doing wrong,” Allen said. “They’ve spent the past six or seven years remedying that.”

The Los Angeles Times [reported in 2016](#) that city officials there agreed to spend \$200 million “to ensure that 4,000 units are accessible to people who use wheelchairs, have hearing impairments or live with other disabilities. The city could reach that goal by building additional apartments, redesigning existing ones or demonstrating that units already built are, in fact, accessible.”

Feidt said she hopes for something similar in Chicago.

“We want the stock of affordable housing to be made compliant, either by retrofitting existing units or by constructing new ones,” she said, “and we want the city to develop internal policies that ensure compliance (by) owners and developers getting funding.”



By Dennis Rodkin

Dennis Rodkin is a senior reporter covering residential real estate for Crain's Chicago Business. He joined Crain's in 2014 and has been covering real estate in Chicago since 1991.